

1924

EMINENT DOMAIN

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principal out of rates explicit provision is made to meet deficits and losses out of the general funds of the state. The board is empowered to appoint such employees as it may require and fix their compensation. These employees are exempted from the state civil service law, so that the board can build up a great political machine through patronage.

This year advocates of the measure seek to take political advantage of the drought by masking the water and power amendment as a water conservation plan, but public ownership will not increase rainfall. Behind the existing dams the storage basins are almost dry. What California needs is more rain, not more empty reservoirs.

There is no public need for the state to embark in the power business and no good reason for adding half a billion dollars of tax-free bonds to the huge volume of such securities outstanding. Many advocates of the water and power measure, undismayed by the failure of North Dakota in the wheat and banking businesses, favor the act as a first step in California toward the taking over by government of essential industries and the redistribution of private wealth through taxation. There is no more reason why the state should adventure into the power busi-

ness than into the flour or automobile business. Less than fourteen years ago the state undertook effective regulation of public utility companies. As a result the rates, investments and service of such companies are now controlled by a public agency. To scrap the policy of regulation and substitute public ownership would be unjust and foolish. Even those who assert that regulation has failed can not logically offer as an improvement a new commission appointed like the railroad commission by the governor and given the insufficiently restricted power of expending the taxpayers' money and hiring armies of employees.

Private initiative and effort developed California. Political management is usually wasteful and inefficient, and to compel taxpayers to provide enormous amounts of borrowed money for the financing of unspecified ventures by a political machine would be to invite disaster.

The voters should rebuke by a majority larger than before the restless agitators who refuse to accept the decision of the people so emphatically expressed. Repeated submission of such measures is a public nuisance and tends to bring the initiative into disrepute.

A. H. BREED,

President pro tempore California Senate.

EMINENT DOMAIN. Assembly Constitutional Amendment 31. Amends Section 23a of Article XII of Constitution, which now empowers railroad commission to exercise such power as Legislature confers upon it to fix compensation to be paid for taking property of public utility in eminent domain proceedings by the state or any county, municipality or municipal water district, so as to authorize that commission to exercise such power when such proceedings are taken by an irrigation district or other public corporation or district.

YES

NO

(For full text of Amendment see page 25, Part II.)

Argument in Favor of Assembly Constitutional Amendment No. 31.

The above amendment was introduced at the request of the irrigation districts of the State of California.

It changes the present law in this respect only, adding the words "irrigation district."

The reason for the amendment is as follows: If the state or any county or city or municipal water district desires to acquire any property of a public utility by eminent domain procedure, the railroad commission can fix the valuation thereof.

In conferring this power on the railroad commission, the legislature also included irrigation districts; but the constitution in giving this right to the legislature did not include the words "irrigation districts."

The amendment merely gives the irrigation districts and other public districts the same rights as are given to other municipalities and municipal water districts, and corrects what was evidently an error of oversight in the original draft of the constitution.

It does not change the existing law but places the words "irrigation districts" within the real meaning of the law.

D. C. WILLIAMS,

Assemblyman Forty-ninth District.

Argument in Favor of Assembly Constitutional Amendment No. 31.

The proposed section is identical with the present provision of the constitution, except that the following is inserted: "irrigation district or other public corporation or district."

The purpose is to repair a defect in the existing section of the constitution, and to extend the powers of the railroad commission in condemnation proceedings to a class of public service institutions not specifically mentioned in section 23a of article XII and now embodied in the constitution.

GEORGE H. DAVIS,

Assemblyman Seventy-eighth District.

been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

Any recall petition may be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the state shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same stating his qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of electors. Each section of the petition shall be filed with the clerk, or registrar of voters, of the county or city and county in which it was circulated; but all such sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the date of filing such petition, the clerk, or registrar of voters, shall finally determine from the records of registration what number of qualified electors have signed the same; and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the secretary of state and file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar of voters to the secretary of state, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof as of the original petition, and upon the

conclusion of such examination shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the secretary of state.

When the secretary of state shall have received from one or more county clerks, or registrars of voters, a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the state a certificate showing such fact; and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the state.

No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months; save and except it may be filed against any member of the state legislature at any time after five days from the convening and organizing of the legislature after his election.

If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the state treasury any amount legally expended by him as expenses of such election, and the legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

If the governor is sought to be removed under the provisions of this article, the duties herein imposed upon him shall be performed by the lieutenant-governor; and if the secretary of state is sought to be removed, the duties herein imposed upon him shall be performed by the state controller; and the duties herein imposed upon the clerk or registrar of voters, shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The recall shall also be exercised by the electors of each county, city and county, city and town of the state, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall petition to be signed by electors more in number than twenty-five per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities or counties or cities and counties having charters adopted under the authority given by the constitution.

In the submission to the electors of any petition proposed under this article all officers shall be guided by the general laws of the state, except as otherwise herein provided.

This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein reserved.

Section twenty-three a of article twelve, referred to in the proposed amendment, reads as follows:

Sec. 23a. The railroad commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the state or any county, city and county, incorporated city or town, or municipal water district, and the right of the legislature to confer such powers upon the railroad commission is hereby declared to be plenary and to be unlimited by any provision of this constitution. All acts of the legislature heretofore adopted, which are in accordance herewith, are hereby confirmed and declared valid.

EMINENT DOMAIN. Assembly Constitutional Amendment 31. Amends Section 23a of Article XII of Constitution, which now empowers railroad commission to exercise such power as Legislature confers upon it to fix compensation to be paid for taking property of public utility in eminent domain proceedings by the state or any county, municipality or municipal water district, so as to authorize that commission to exercise such power when such proceedings are taken by an irrigation district or other public corporation or district.

YES

NO

Assembly Constitutional Amendment No. 31—A resolution to propose to the people of the State of California an amendment to the constitution of said state by amending section twenty-three a of article twelve thereof, relating to the fixing by the railroad commission of compensation

for taking public utility property in eminent domain proceedings.

Resolved by the assembly, the senate concurring, That the legislature of the State of California at its regular session commencing on the eighth day of January, one thousand nine

[Twenty-five]

hundred twenty-three, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes to the people of the State of California that section twenty-three of article twelve of the constitution of this state be amended to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black-faced type.)

Sec. 23a. The railroad commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the state or any county, city and county, incorporated city or town, municipal water district, irrigation district or other public corporation or district, and the right of the legislature to confer such powers upon the railroad commission is hereby declared to be plenary and to be unlimited

by any provision of this constitution. All acts of the legislature heretofore adopted which are in accordance herewith are hereby confirmed and declared valid.

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Sec. 23a. The railroad commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the state or any county, city and county, incorporated city or town, or municipal water district, and the right of the legislature to confer such powers upon the railroad commission is hereby declared to be plenary and to be unlimited by any provision of this constitution. All acts of the legislature heretofore adopted, which are in accordance herewith, are hereby confirmed and declared valid.

SUFFRAGE. Assembly Constitutional Amendment 24 amending Section 1 of Article II by inserting therein proviso declaring that any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within thirty days of an election shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct from which he so removed until after such election.

YES

NO

Assembly Constitutional Amendment No. 24—A resolution to propose to the people of the State of California an amendment to the constitution of said state by amending section one of article two of the constitution relating to the right of suffrage.

Resolved by the assembly, the senate concurring, That the legislature of the State of California, at its forty-fifth regular session, commencing on the eighth day of January, one thousand nine hundred twenty-three, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that section one of article two of the constitution of this state be amended to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black-faced type.)

Section 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the state one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within thirty days of an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct from which he so removed until after such election; provided, further, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this state; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who had the right to vote on October 10, 1911, nor to any person who was sixty years of age and upwards on October 10, 1911; provided, further, that the legislature may, by general law, provide for the casting of votes by duly registered voters who, by reason of their occupation, are regularly required to travel about the state and who, by such affidavit as the legislature may prescribe, show that they will be absent from their respective precincts on the day on which any primary or general election is held, or who, by reason of their being engaged in

the military or naval service of the United States or of the state, may be absent from their respective precincts on the day on which any primary or general election is held; which votes (a) may be cast in the office of the registrar of voters, or of the county clerk of the county or city and county in which such voters respectively reside, and on a day prior to the date of such election, under such provisions as the legislature may see fit to make; or (b) may be cast in the city, county or town within this state in which such voters may be on the day on which such election is held, under such provisions as the legislature may see fit to make, and shall be forwarded in such manner as the legislature may prescribe to the officers respectively of the city, county or town having charge of the counting of the ballots cast at such election; or (c) in cases where said voters are engaged in such military or naval service may be cast at any place, under such provisions as the legislature may see fit to make, and shall be forwarded in such manner as the legislature may prescribe to the officers respectively of the city, county or town having charge of the counting of the ballots at such election; all of which votes shall be kept in such manner and counted by such methods as the legislature may prescribe; provided, that it must be required that all ballots cast in any other place than the precinct of the voter must be received by the county clerk of the county in which the voter is registered, within two weeks of the election, in which such ballots are to be counted.

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Section 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the state one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this state; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who *now has the right to vote*, nor to any person who *shall be* sixty years of age and upwards *at the time this amendment shall take effect*.